

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: October 16, 2014

Agenda Item: Yellowstone River (near Sidney) Channel Migration Easement

Division: Fisheries

Action Needed: Endorsement

Time Needed on Agenda for this Presentation: 15 minutes

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Background

A channel migration easement is an easement on land bordering a stream or river that precludes the owner from rip-rapping a bank allowing natural erosive processes to continue. In collaboration with the Western Area Power Administration (WAPA) and the Upper Basin Pallid Sturgeon Governing Board and Work Group, FWP developed a pilot Channel Migration Easement Program to protect naturally functioning floodplains along the Yellowstone River, which sustain pallid sturgeon and other aquatic and terrestrial wildlife. In 2009 and 2010, WAPA provided FWP funds to develop and implement the program for the Yellowstone and Missouri Rivers. FWP was unable to locate a willing seller for an acceptable price. As of December 2013, these funds had not been spent.

Montana Aquatic Resource Services (MARS), after entering an agreement with FWP to facilitate application of the WAPA funds, located a willing seller. The Navratils own approximately 230 acres on the Lower Yellowstone River, 88 acres of which are being considered for a channel migration easement. MARS sought a third party to hold the easement. The Montana Land Reliance (MLR) has agreed to hold the channel migration easement as a part of a traditional conservation easement which covers their entire ownership, rather than only the channel migration area, thereby conserving a broader set of conservation values. Pursuant to internal policy, FWP must retain a third-party right of enforcement for at least the channel migration/erosion hazard portion of the easement. Therefore, FWP proposes the following:

Public Involvement Process & Results

Upon approval to proceed from FW Commission, terms of the easement, including a third-party right of enforcement, will be negotiated. Once the easement is formulated and mutually agreed upon, an Environmental Assessment will be completed, with a public-comment period and additional public involvement. Final Commission approval would be necessary to complete the transaction.

Alternatives and Analysis

Proposed Action: Proceed with negotiations for a channel migration easement of 88 acres, which is a part of a broader conservation easement along and adjacent to the Yellowstone River owned by Gerald and Maryellen Navratil. The channel migration component of the conservation easement would protect the natural erosive processes of the river, thereby helping create habitat conditions necessary for the survival of the pallid sturgeon. MRL would hold and monitor the easement. FWP would hold a third-party right of enforcement of the conservation easement, including the channel migration portion.

No Action alternative: FWP would forgo the opportunity to help secure protection of natural erosive processes on the Navratil property, as well as protection of broader conservation values. The WAPA grant funds would be available for allocation to a different channel migration easement project or remain unused.

Agency Recommendation & Rationale

FWP recommends approval by the FW Commission to proceed to negotiate with the Navratils, MARS and MRL toward MRL's purchase of the conservation easement, which includes protection for channel migration as described herein.

Proposed Motion

I move that the Commission grant FWP preliminary approval to negotiate the terms of a conservation easement on 230 acres of property belonging to Gerald and Maryellen Navratil, which includes protections for channel migration and is to be held by the Montana Land Reliance, but is enforceable by FWP.